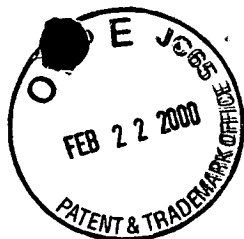


FILE NO.: ETEC-25,285



PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: William B. Walton

Serial No.: 09/157,427

Filed: 09/21/98

Group: 3672

Examiner: J. Dougherty

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, DC 20231 on 2-17-00 (Date of Deposit)
F. Lindsey Scott
F. Lindsey Scott

For: "Procedure for the Mobilization of a Heavy Asphaltene-Based Crude From a Reservoir Having no Reservoir Drive and only Gravity Drainage as the Production Mechanism Using a Micelle Mutual Solvent Based on a Phosphate Ester Surfactant and Air Injection"

Assistant Commissioner for Patents
Washington, D.C. 20231

**PETITION AND AFFIDAVIT OF FACTS: REFUSAL OF INVENTOR
TO SIGN A SUBSTITUTE DECLARATION**

This petition is being filed because the inventor of the subject application, William B. Walton, has refused to sign a substitute oath/declaration.

Mr. Walton's current address is believed to be: 815 Woodard Avenue, Apartment 2113, Cleburne, Texas 76031.

I, F. Lindsey Scott, an Associate Attorney of Record for the purpose of prosecuting the subject U.S. patent application by virtue of a Power of Attorney filed with the enclosed Amendment, hereby declare:

- A. I mailed a letter to Mr. William B. Walton, inventor of the subject application, at 815 Woodard Avenue, Apt. 2113, Cleburne, Texas 76031, on December 21, 1999, requesting that he execute a substitute Declaration and Power of Attorney for the subject application. A copy of this letter and the substitute Declaration and Power of Attorney is attached. This substitute Declaration and Power of Attorney was requested in view of a requirement for a

new oath or declaration in compliance with 37 CFR 1.67 in the Office Action mailed November 23, 1999. The initially-filed oath or declaration was considered defective because:

"It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration."

"It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56."

"It does not identify the city and state or foreign country of residence of each inventor."

"It does not identify the post office address of each inventor. A post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The post office address should include the zip code designation."

A copy of the Declaration originally filed in the subject application is attached hereto.

- B. No response was received to the December 21, 1999 letter.
- C. A second letter was mailed to Mr. William B. Walton at the same address January 13, 2000 (copy attached) further requesting that he execute the substitute Declaration and Power of Attorney attached to the letter. This letter was sent via Certified Mail with a Return Receipt Requested. A Return Receipt was received confirming delivery January 15, 2000 (copy attached).
- D. No response has been received to the January 13, 2000 letter.
- E. Attached is a copy of an Assignment of the subject invention to ETechMM. This Assignment is signed by William B. Walton and recites signature at Dallas, Texas on the 15th day of September, 1998. A copy of this Assignment has been forwarded to the Patent Office for recordation. The copy of the Assignment forwarded for recordation was forwarded February 2, 2000. No Notice of Recordation has been received to date.

- F. I have been authorized by Mr. James F. Coker, C.E.O./Managing Trustee of ETechMM, a Delaware Business Trust, to execute the enclosed substitute Declaration on behalf of ETechMM.
- G. It is necessary that this Declaration be executed and forwarded prior to February 23, 2000 in order that ETechMM may continue prosecution of this case on a timely basis to obtain the patent rights which have been assigned to it.

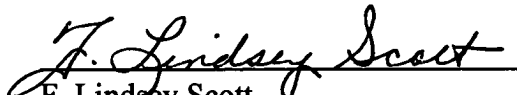
It is respectfully requested that this petition be granted.

Enclosed is a check for \$130.00 in payment of the fee for this Petition. Please charge any underpayment or credit any overpayment in this fee to Deposit Account No. 50-0232.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FURTHER AFFIANT SAYETH NOT.

Date: 2-17-00


F. Lindsey Scott
Registration No. 26,230
972/661-0102

Law Office of F. Lindsey Scott
14651 Dallas Parkway, Suite 102
Dallas, Texas 75240-7477

FLS:jp
c:\docs\etec\25285\petition.aff

F. LINDSEY SCOTT

(972)661-0102

(972)991-7744
flscott@flash.net

ATTORNEY AT LAW
PATENT, TRADEMARK AND COPYRIGHT MATTERS
14651 DALLAS PARKWAY, SUITE 102
DALLAS, TEXAS 75240-7477

December 21, 1999

Mr. William B. Walton
815 Woodard Ave., Apt. 2113
Cleburne, Texas 76031

Re: Declaration and Power of Attorney for a Patent Application, U.S. Serial No. 09/157,247 - "Procedure for the Mobilization of a Heavy Asphaltene-Based Crude From a Reservoir Having no Reservoir Drive and only Gravity Drainage as the Production Mechanism Using a Micelle Mutual Solvent Based on a Phosphate Ester Surfactant and Air Injection"

Dear Bill:

During the prosecution of this application, the Patent Office has required that a new Declaration and Power of Attorney be signed. Accordingly, I have prepared a new Declaration and Power of Attorney based upon the originally filed Declaration and Power of Attorney. Since this application has already been filed, and since you have already signed the original Declaration and Power of Attorney, no revision of the application can be made at this point.

Please sign and return the enclosed Declaration and Power of Attorney form to me. I would appreciate it if you could tend to this at your earliest convenience, since I am required to respond to the Patent Office rather quickly in response to their rejections of the subject application.

For your convenience, I have enclosed a stamped, self-addressed envelope.

Thank you in advance for your cooperation in this matter and I look forward to hearing from you at your earliest convenience.

Very truly yours,


F. Lindsey Scott

FLS:jp
cc: Keith Pardue (w/Enc.)

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, that I believe I am the original, first and sole/joint inventor of the subject matter which is claimed and for which a patent is sought on the invention, design or discovery entitled:

"PROCEDURE FOR THE MOBILIZATION OF A HEAVY ASPHALTENE-BASED CRUDE FROM A RESERVOIR HAVING NO RESERVOIR DRIVE AND ONLY GRAVITY DRAINAGE AS THE PRODUCTION MECHANISM USING A MICELLE MUTUAL SOLVENT BASED ON A PHOSPHATE ESTER SURFACTANT AND AIR INJECTION"

the specification of which was filed September 21, 1998 and assigned U.S. Serial No. 09/157,427; that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above; that I do not know and do not believe that said invention, design or discovery was ever known or used in the United States of America before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention, design or discovery has not been patented or made the subject of an inventor's certificate issued prior to the date of this Application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns; and that I acknowledge my duty to disclose information of which I am aware which is material to patentability in accordance with 37 C.F.R. 1.56 (a).

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

NONE

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed

in the prior United States application(s) in the manner provided by the first paragraph of 35 U.S.C §112, I acknowledge the duty to disclose material information as defined 37 C.F.R. §1.56 (a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

NONE

I hereby appoint:

John L. Palmer

Reg. No. 26,214

as my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, and to file and prosecute any international patent applications based thereon in any foreign country or before any international authorities under the Patent Cooperation Treaty.

Send Correspondence To:

John L. Palmer
10309 Megan Court
Frisco, Texas 75035

Direct Telephone Calls To:

John L. Palmer
972-335-8029

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of the first inventor: William B. Walton

Inventor's Signature: _____

Date: _____

Residence (City, State): Cleburne, Texas

Citizenship: U.S.A.

Address: 815 Woodard Ave., Apt. 2113, Cleburne, Texas 76031

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DECLARATION FOR PATENT APPLICATION

As below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

A procedure for the mobilization heavy asphaltene-based crude from a reservoir having no reservoir drive and only gravity drainage as the production mechanism using a micelle solvent based on phosphate surfactant and air injection;

a specification of which is attached hereto.

I do not claim priority benefits under Title 35, United States Code, Sec. 119 for any foreign applications for patents or inventors certificates.

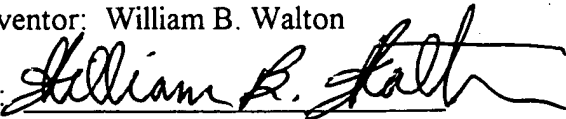
I hereby appoint John L. Palmer, Registration No. 26214 to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Address all telephone calls to John L. Palmer at (972) 335 8029.

Address all correspondence to John L. Palmer 10309 Megan Court, Frisco, Tx. 75035.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements, and the likes so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor: William B. Walton

Inventors Signature: 

Date: September, 15, 1998 Citizenship: USA

Residence: 815 Woodard Ave. Apt. 2113

Post Office Address: Cleburne, TX. 76031

(972)661-0102

LAW OFFICE OF

F. LINDSEY SCOTT

(972)991-7744
flscott@flash.net

ATTORNEY AT LAW
PATENT, TRADEMARK AND COPYRIGHT MATTERS
14651 DALLAS PARKWAY, SUITE 102
DALLAS, TEXAS 75240-7477

January 13, 2000

**VIA CERTIFIED MAIL --
RETURN RECEIPT REQUESTED**

Mr. William B. Walton
815 Woodard Ave., Apt. 2113
Cleburne, Texas 76031

Re: Declaration and Power of Attorney for a Patent Application, U.S. Serial No. 09/157,247 - "Procedure for the Mobilization of a Heavy Asphaltene-Based Crude From a Reservoir Having no Reservoir Drive and only Gravity Drainage as the Production Mechanism Using a Micelle Mutual Solvent Based on a Phosphate Ester Surfactant and Air Injection"

Dear Bill:

As I advised in my request to you December 21, 1999 to execute the attached Declaration and Power of Attorney, during the prosecution of this application, the Patent Office has required that a revised Declaration and Power of Attorney be filed. Accordingly, I have prepared a revised Declaration and Power of Attorney based upon the originally filed Declaration and Power of Attorney. This application has already been filed, and you have already signed the original Declaration and Power of Attorney.

I note that in the assignment of the invention, you have agreed to sign all papers which may be necessary or convenient for securing and maintaining patents for this invention. Accordingly, I again request that you please sign and return the enclosed Declaration and Power of Attorney form to me.

I would appreciate it if you could attend to this at your earliest convenience, since I am required to respond to the Patent Office rather quickly in response to their rejection of the subject application.

The indications in the first Office Action are that allowable claims are included in this application. I have prepared a suitable amendment which I will file with the Patent Office as soon as I have received the revised Declaration and Power of Attorney form from you.

For your convenience, I have enclosed a stamped, self-addressed envelope.

Mr. William B. Walton
January 13, 2000
Page 2

Thank you in advance for your cooperation in this matter and I look forward to hearing from you at your earliest convenience.

Very truly yours,


F. Lindsey Scott

FLS:jp
Enclosure
cc: Keith Pardue (w/Enc.)

c:\docs\...\25285\walton.1

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

William B. Walton
815 Woodard Ave., Apt. 2113
Cleburne, Texas 76031

4a. Article Number

P 583 553 390

4b. Service Type

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

11/15/00 *ls*

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Addressee or Agent)

X *[Signature]*

PS Form 3811, December 1994

102595-98-B-0229

Domestic Return Receipt

Thank you for using Return Receipt Service.

ASSIGNMENT

I William B. Walton 815 Woodard Ave. Apt. 2113 Cleburne, Texas 76031 hereby sell, assign and transfer unto EtechMM, 13829 Creekside Drive, Dallas, Texas, an assignee, and its successors, assigns and legal representatives, the entire right, title and interest, for all countries in and to certain inventions relating to:

A procedure for the mobilization of a heavy asphaltene-based crude from a reservoir having no reservoir drive and only gravity drainage as the production mechanism using a micelle mutual solvent based on a phosphate ester surfactant and air injection;

as described in a an application for letters patent of the United States patent and Trademark Office executed by me on the 15th day of September, 1998, and all the rights and privileges under any and all letters Patent that may be granted thereof.

I request that any and all patents for said inventions be issued to said assignee, its successors, assigns and legal representatives, or to such nominees as I may designate.

I agree that, when requested, I will, without charge to said assignee but at its expense, sign all papers, take all rightful oaths, and do all acts which may be necessary, desirable or convenient for securing and maintaining patents for said inventions in any and all countries and for vesting title thereto in said assignee, its successors, assigns and legal representatives or nominees.

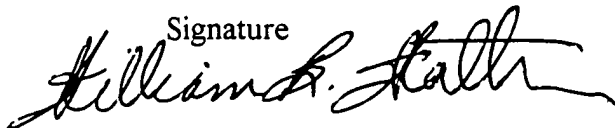
I authorize and empower the said assignee, its successors, assigns and legal representatives or nominees, to invoke and claim for any application for patent or other form of protection for said inventions filed by it or them, the benefit of the right of priority by the International Convention for the Protection of Property, as emended, or by any convention which may henceforth be substituted for it, and to invoke and claim such right of priority without further written or oral authorization from me.

I hereby consent that a copy of this assignment shall be deemed a full legal and formal equivalent of any assignment, consent to file or like document which may be required in any country for any purpose and more particularly in proof of the right of said assignee or nominee to claim the aforesaid benefit of the right of priority provided by the International Convention for the Protection of Property, as amended, or by any convention which may henceforth be substituted for it.

I covenant with said assignee, its successors, assigns and legal representatives, that the rights herein conveyed are free and clear of any encumbrance, and that I have full right to convey the same as herein expressed.

Signed at Dallas, Texas this 15th day of September, 1998

Signature



Witness

U.S. Patent Application No. 09/157,427, Filed 09/21/98

CLEAN COPY OF CLAIMS AS AMENDED
February 16, 2000

1. A process for restoring the injectivity or productivity of a well penetrating a subterranean formation and defining a well bore and a well bore face, the injectivity or productivity of the well being reduced by an accumulation of an asphaltene precipitate on the well bore face or in the subterranean formation the process comprising:

a) injecting a micelle treating fluid into the well penetrating the subterranean formation, the micelle treating fluid comprising a 2 percent potassium chloride water solution and a mutual solvent comprising alcohol, aromatic hydrocarbon, and an alkyl or alkylaryl polyoxyalkylene phosphate ester surfactant, the 2 percent potassium chloride water solution and the mutual solvent being mixed in a volumetric ratio of about 1 to 1 to about 2 to 1;

b) displacing the micelle treating fluid into contact with the accumulation of asphaltene precipitate and the low-gravity, high-viscosity, asphaltene-based crude in the formation by injecting a gas into the well; and,

c) contacting the accumulation of asphaltene precipitate and the low-gravity, high-viscosity, asphaltene-based crude indigenous to the formation with the micelle treating fluid so that the micelle treating fluid degrades and disperses the accumulation of asphaltene precipitate to substantially restore injectivity or productivity of the well and reduces the viscosity of low-gravity, high-viscosity, asphaltene-based crude.

2. The process of Claim 1 wherein the gas is selected from the group consisting of air, carbon dioxide, nitrogen and natural gas.

3. The process of Claim 1 wherein at least a portion of the micelle treating fluid is injected with the gas.

4. cancelled.
5. The process of Claim 1 further comprising shutting in the well for a period of time sufficient to allow the micelle treating fluid to degrade and disperse the accumulation of asphaltene precipitate, thereby substantially restoring injectivity or productivity of a well.
6. The process of Claim 5 wherein the well is shut in for a period of 24 to 72 hours.
7. The process of Claim 1 wherein the alkyl or alkylaryl polyoxyalkylene phosphate ester is present in the mutual solvent in the amount from about 5 to 50 weight percent of the mutual solvent.
8. The process of claim 7 wherein the alkyl or alkylaryl polyoxyalkylene phosphate ester surfactant is present in the mutual solvent in an amount from 10 to 20 weight percent of the mutual solvent.
9. The process of Claim 8 wherein the alkyl or alkyl polyoxyalkylene phosphate ester surfactant is present in the mutual solvent in an amount from about 12 to 18 weight percent of the mutual solvent.
10. The process of Claim 1 wherein the mutual solvent comprises an alkyl or alkylaryl polyoxyalkylene phosphate ester surfactant dissolved in a mixed non-aqueous solvent comprising methanol in an amount from about 20 to 27 percent, isopropanol in an amount of from about 40 to 44 percent, capryl alcohol in an amount of about 8 to 12 percent, and xylene in an amount of from about 23 to 27 weight percent.
11. The process of Claim 10 wherein 2 percent potassium chloride water and the mutual solvent are mixed in a volumetric ratio of about 2 to 1.

12. cancelled.

13. The process of Claim 1 further comprising injecting the gas, either alone or augmented with injection water or micelle treating fluid a second time after the well has been shut in for 24 hours after a first gas injection.

14. The process of Claim 13 wherein the well is shut in for an additional 24 hours.

15. The process of Claim 13 wherein the micelle treating fluid is moved out into the reservoir contacting the low-gravity, high-viscosity, asphaltene-based crude indigenous to the subterranean formation, thus reducing its viscosity to produce a lower viscosity asphaltene-based crude dispersed in the micelle treating fluid.

16. The process of Claim 15 wherein the lower viscosity asphaltene-based crude dispersed in the micelle treating fluid is caused to migrate back into a stimulated well.

17. The process of Claim 16 wherein the lower viscosity asphaltene-based crude dispersed in the micelle treating fluid is caused to migrate to an offset well in fluid communication with the stimulated well by use of the gas, either injected alone or augmented with injection water or micelle treating fluid.

18. cancelled.

19. cancelled.

20. cancelled.

**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, that I believe I am the original, first and sole/joint inventor of the subject matter which is claimed and for which a patent is sought on the invention, design or discovery entitled:

"PROCEDURE FOR THE MOBILIZATION OF A HEAVY ASPHALTENE-BASED CRUDE FROM A RESERVOIR HAVING NO RESERVOIR DRIVE AND ONLY GRAVITY DRAINAGE AS THE PRODUCTION MECHANISM USING A MICELLE MUTUAL SOLVENT BASED ON A PHOSPHATE ESTER SURFACTANT AND AIR INJECTION"

the specification of which was filed September 21, 1998 and assigned U.S. Serial No. 09/157,427; that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above; that I do not know and do not believe that said invention, design or discovery was ever known or used in the United States of America before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application; that said invention, design or discovery has not been patented or made the subject of an inventor's certificate issued prior to the date of this Application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns; and that I acknowledge my duty to disclose information of which I am aware which is material to patentability in accordance with 37 C.F.R. 1.56 (a).

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

NONE

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed

in the prior United States application(s) in the manner provided by the first paragraph of 35 U.S.C §112, I acknowledge the duty to disclose material information as defined 37 C.F.R. §1.56 (a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

NONE

I hereby appoint:

John L. Palmer

Reg. No. 26,214

as my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, and to file and prosecute any international patent applications based thereon in any foreign country or before any international authorities under the Patent Cooperation Treaty.

Send Correspondence To:

John L. Palmer
10309 Megan Court
Frisco, Texas 75035

Direct Telephone Calls To:

John L. Palmer
972-335-8029

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of the first inventor: William B. Walton

Inventor's Signature:

J. Lindsey Scott atty for Assignee

Date:

2-16-00

Residence (City, State):

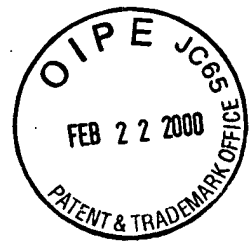
Cleburne, Texas

Citizenship:

U.S.A.

Address:

815 Woodard Ave., Apt. 2113, Cleburne, Texas 76031



POWER OF ATTORNEY

I, John L. Palmer, residing at 10309 MEGAN Ct., Frisco, Texas 75035 do hereby appoint F. Lindsey Scott of 14651 DALLAS parkway , Dallas Texas, Associate Attorney for the purpose of prosecuting U. S. Patent Application Serial No.09/157427 titled A Procedure for The Mobilization Of A Heavy Asphaltene-Based Crude From A Reservoir Having No Reservoir Drive And Only Gravity Drainage As The Production Mechanism Using A Michelle Mutual Solvent Based On A Phosphate Ester Surfactant And Air Injection, Inventor William Walton, now pending before The U. S. Patent and Trademark Office.

This Power of Attorney shall become effective immediately, shall not be affected by my disability or lack of mental competency, and shall continue effective indefinitely.

Dated this 13 day of December, 1999

Signed John L. Palmer

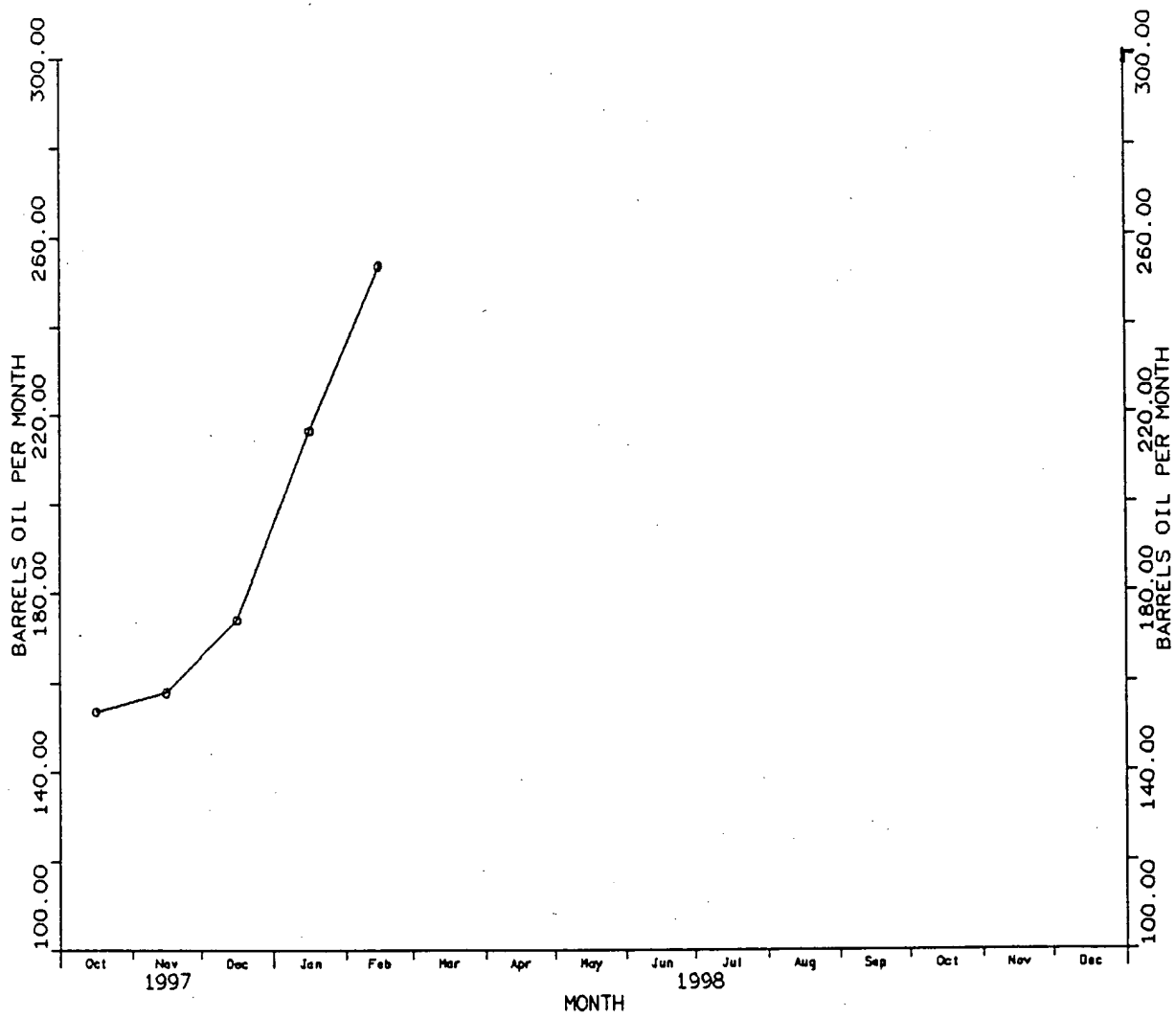


FIG 1

FIG 2

COMPARISON OF WELL #P-11. #35. AND #44 YTD DAILY FLUID ENTRY

